

DE 03-078

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Petition of Wausau Papers of New Hampshire, Inc.

Order of Clarification

O R D E R N O. 24,182

June 6, 2003

On May 23, 2003, Public Service Company of New Hampshire (PSNH) filed a motion with the New Hampshire Public Utilities Commission (Commission) for clarification of Order No. 24,171, entered in this docket on May 12, 2003. In that order, the Commission determined pursuant to RSA 378:7 that Wausau Papers of New Hampshire, Inc. (Wausau) is entitled to a special arrangement with PSNH relative to Wausau's retail power purchases. As discussed in Order No. 24,171, the basis of such entitlement is certain competitive harms experienced by Wausau as a result of a special contract recently approved between PSNH and Fraser N.H. LLC in Docket No. DE 03-064. See Order No. 24,151 (April 30, 2003 (approving special contract) and Order No. 24,179 (May 29, 2003) (denying Wausau motion for rehearing). Upon a finding that such competitive harms exist, Order No. 24,171 outlines terms of a special arrangement designed to ameliorate such effects while holding PSNH and its other customers harmless.

Appended to PSNH's clarification motion was a proposed compliance tariff designed to implement the terms of the special arrangement described in Order No. 24,171. Wausau filed an

objection to the reconsideration motion on May 28, 2003, indicating therein that it also objected to certain terms in the compliance tariff.

The major point of contention between Wausau and PSNH concerns the purchase guarantee provisions of the special arrangement approved in Order No. 24,171. As noted in the Order, the purpose of these provisions is to facilitate PSNH's "hedging" of Wausau's energy purchases under the special arrangement - i.e., PSNH minimizing its potential exposure (and that of its other customers) to losses arising out of PSNH having to meet Wausau's energy needs by making purchases on the regional spot market at times of high energy prices. According to PSNH, hedging would be impossible unless Wausau made the requisite guarantee on a 30-minute basis, as opposed simply to indicating what aggregate amount of energy Wausau intended to purchase during one of the "purchase guarantee" months described in the Order. Wausau contends it cannot forecast its energy needs with that level of precision and that requiring it to do so would likely expose Wausau to penalty payments that would erase the economic benefits of the special arrangement.

The pending motion papers reveal that certain other matters are in dispute following the entry of Order No. 24,171. PSNH and Wausau are in disagreement over whether Wausau's additional "backup contract demand" should be measured in

kilowatts or kilovolt-amperes, a calculation with implications for certain demand charges to be paid by Wausau. The companies likewise are in dispute over the duration and beginning date of the special arrangement, and the scope of the purchase guarantee. On the latter issue, Wausau contends that the guarantee applies only to its so-called "condenser load," which excludes the energy necessary to generate the steam directly used in the papermaking process. PSNH's position is that the guarantee applies to all of Wausau's power purchase requirements.

On June 5, 2003, Wausau submitted a letter indicating that certain settlement discussions had taken place among the parties and Commission Staff with respect to the issues raised in the clarification motion and PSNH's compliance filing. The letter advised that those negotiations had not resulted in an agreement. Accordingly, Wausau requested that the Commission expeditiously grant the objection Wausau interposed to PSNH's compliance tariff. The letter noted that "[e]ven though the Commission did not provide Wausau with a full remedy, the limited relief provided by the Commission is adequate for Wausau so long as the costs associated with higher priced Transition Service do not significantly reduce the savings to Wausau associated with discounted delivery service."

We have reviewed PSNH's request for clarification and Wausau's response, and find it appropriate to make the following clarifications to our previous determination.

On page 20 of our previous order, we noted that, "[d]ue to the administrative obstacles that result from retroactive application of the Wausau special arrangement to April and May of 2003, the Wausau arrangement will be in force for a period of 12 months beginning June 1, 2003." We clarify here that our intention was for the special arrangement to be effective for a 12-month period. Given that it has proven impractical to implement the special arrangement on June 1, 2003, the 12-month effective period of the special arrangement will begin on July 1, 2003.

PSNH's compliance tariff defines "backup contract demand," a term central to the determination of demand charges under the special arrangement, as "[a]n amount of demand equal to the greater of (a) 5,500 or (b) the highest thirty minute kilovolt-ampere demand registered during On-Peak Hours in the current month." PSNH and Wausau appear to be in agreement on this definition and its significance, with one key exception: Wausau contends that backup contract demand should be measured in kilowatts.

Wausau has correctly interpreted Order No. 24,171 in this respect. Although the use of kilovolt-amperes would create

a consistency between the Wausau special arrangement and the tariffed backup rate (Rate B) that would otherwise apply to Wausau, what we intended in Order No. 24,171 was consistency with the base demand provision of the Fraser special contract, which measures demand in kilowatts.

PSNH contends that Order No. 24,171 was unclear when it required Wausau "to take energy for at least its condenser load."

According to PSNH, both it and Wausau understand this requirement to mean that Wausau must guarantee that it will not utilize its steam turbine to produce electricity in excess of its thermal requirements for certain guaranteed-purchase months during the period the special arrangement is in effect. This understanding of the relevant provisions of Order No. 24,171 is correct.

Wausau has offered to provide monthly data of its actual steam flow records, to ensure that Wausau's minimum-purchase guarantee is enforceable, and to eliminate the possibility of arbitrage. We approve this suggested mechanism, and expect PSNH to include a reasonable estimate (or estimates, as the case may be) of such steam flow loads in its compliance tariff filing.

Next we take up the question of the scope of Wausau's power purchase guarantee under the special arrangement. Wausau draws the Commission's attention to this language from page 21 of

Order No. 24,171: "We will expect PSNH to 'hedge' its energy supply obligation to Wausau during the minimum seven months in question by contracting for the necessary wholesale power, if it is economic to do so rather than rely on a combination of PSNH generation and spot purchases." We understand PSNH's position, as articulated in its motion for clarification, to be that it would not be economical to hedge the obligation during the seven months in question, unless Order No. 24,171 is modified to require purchase guarantees on a 30-minute basis. We decline to do so. We understand that the lack of such guarantees will make it more difficult for PSNH to fully hedge the transactions. Finally, we stress that our intention was to require Wausau to guarantee only purchases associated with its condenser load (i.e., that portion of its load not associated with the steam used in the papermaking process).

PSNH further requests clarification with respect to Wausau's ability to purchase energy from a competitive supplier during the so-called guaranteed purchase months. We clarify that such an election by Wausau should be part of the 15-day notice referenced at page 20 of Order No. 24,171.

We believe that the clarifications enumerated above resolve any uncertainties discussed in the pending motion papers. In light of these clarifications, it is appropriate to require PSNH to submit a revised compliance tariff within three business

days of the entry of this order. We again stress that it is now our expectation that the special arrangement will go into effect on July 1, 2003.

The parties are cautioned that, because we have clarified rather than altered the substantive determinations we made in Order No. 24,171, it is our understanding that the entry date for that Order, that is, May 12, 2003, marks the beginning of the rehearing period pursuant to RSA 541:3.

Based upon the foregoing, it is hereby

ORDERED, that Order No. 24,171 is clarified as set forth fully above.

By order of the Public Utilities Commission of New Hampshire this sixth day of June, 2003.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Claire D. DiCicco
Assistant Secretary